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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/161,816	09/28/1998	MALCOM B. STRANDBERG	DAVOX-142XX	8075

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EXAMINER
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AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/161,816

Applicant(s)

STRANDBERG, MALCOM B.

Examiner

Hector A. Agdeppa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-23 and 26-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-23,26-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment filed on 5/9/05. Claims 1, 4 – 23, and 26 - 36 are now pending in the present application. **This action is made final.**

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 4 – 11, 21 – 23, 26, 28, and 29 - 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton), and further in view of applicant's admitted prior art and US 2001/0040887 (Shtivelman et al.)

Bateman et al. teaches a method and system for coordinating communications via customer contact channel changing system, using a call center for setting up the call between the customer and an available help agent from a pool of agents, wherein a call back is provided from a request over a data path 6 from a data terminal 4, the call back data including a telephone number to be dialed. (Col. 4, line 51 – Col. 5, line 12 and Col. 6, lines 14 – 19) Furthermore, Bateman et al. teaches a server 28 for receiving requests and forwarding call back data to a remotely located outbound dialer system 32 having a HOTLIST wherefrom telephone numbers to be dialed may be retrieved and processed. (Col. 5, lines 35 – 67 and Col. 6, lines 41 – 50)

Bateman et al. also teaches the aforementioned data path being one or a combination of a direct data path, a LAN or WAN, and/or the PSTN. (Fig. 1)

Bateman et al. teaches that the call back request includes customer indicia, a time to call back, and a message, wherein the message may be comprised of voice and/or text and/or DTMF tones. (Col. 6, line 1 – Col. 7, line 13) Note that Bateman et al. teaches the use an IVR (interactive voice response) system and it is inherent that in an IVR system a customer may respond by pressing buttons on a conventional telephone i.e. DTMF tones or even when a customer may respond via voice, the voice is converted into DTMF tones for processing by the IVR system.

Bateman et al. further teaches a MMM 50 acting as a call scheduler responsive to the aforementioned HOTLIST for ordering and scheduling the telephone numbers to be dialed at approximately the time designated or scheduled to be called back or even immediately. (Col. 7, lines 28 – 61) Furthermore, depending on the data connection type the customer has, an immediate connection may be made with an available agent over a network with the use of ISDN or SVD, so as to allow for the simultaneous exchange of voice and data and waiting for, for example, a customer to disconnect from a dial-up ISP to allow access to a conventional phone line. (Col. 10, lines 25 – 31)

Bateman et al. also teaches the use of CGI programs. (Col. 5, lines 56 – 60 and Col. 7, lines 28 – 42)

Lastly, Bateman et al. also teaches a "substantially immediate" callback in another embodiment wherein a customer may desire for example, "Live Help" instead of a scheduled callback at a later time. (Col. 6, lines 14 – 29)

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Moreover, as seen in Fig. 8, the customer premises shows a telephone 120 and a computer 124, wherein the computer may be connected via modem 126 to the only telephone network taught, the PSTN 116, which is the same telephone network that telephone 120 is connected to. Also, note that the agent will be calling the customer premises over that very same PSTN telephone network.

What Bateman et al. does not teach is the callback being repetitive when encountering a busy signal.

However, Sutton teaches an extremely old and well-known feature of telephony systems which is the continuous redialing of a telephone number in the event that a busy signal is encountered.

Because continuous redialing is such an old and well-known feature, it would simply be an obvious design choice or preferred mode of operation that one skilled in the art would employ in the invention of Bateman et al. If a business encounters a busy or no-answer when calling a customer, there is motivation to keep re-trying/redialing that customer in order to get that customer's business. It would not be good business-sense to merely give up after unsuccessfully attempting to reach a customer only one time.

Moreover, it is arguable that Bateman et al. does not teach a situation wherein the customer premises includes a computer and telephone device connected to the same telephone line wherein the premises is unable to support both voice and data communications.

On the one hand, applicant admits on page 4 of the specification for the present invention that it is known to have a customer premises wherein only one telephone line connects a telephone to the PSTN and a computer to the Internet and that such a configuration would not necessarily support both voice and data. As also taught by Shtivelman et al., a customer premise may include a telephone and computer connected to the same telephone line and if a customer wishes to accept a callback from a call center agent as a PSTN call to a telephone 2111, he/she must end the Internet session. (P. 18, ¶ 0208 – P. 19, ¶ 0217 of Shtivelman et al.) However, if some type of voice over IP (VOIP) communications is desired, then even using only one modem or one communications line, whether analog or digital, voice and data can be supported simultaneously. (P. 18, ¶ 0212 – 0213 of Shtivelman et al.)

Both Bateman et al. and Shtivelman et al. teach computer/data communications integrated with telephony communications regarding call center communications. Moreover, as discussed, it is old and well known to have customer premises wherein PSTN voice and data communications cannot be supported simultaneously. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have allowed a continuous redialed callback for those customers whose premises could not simultaneously support both voice and data.

Given that it was known to submit callback requests via the Internet (applicant's specification P. 3) and that certain customer premises only had one telephone line connecting him/her to both the PSTN and Internet, the only way a callback could be made is to wait for him/her to disconnect from the Internet. This is precisely why

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continuously redialing the customer's number is necessary – because the present invention must wait for a customer to disconnect from the Internet. Note that such a feature is not even attributable to the claimed invention, because it is merely waiting for a circumstance or event that must be performed manually. And as also already discussed, continuous redialing is extremely old and well known.

Even the teaching of Bateman et al. alone suggests the obviousness of the present invention. Bateman et al. uses SVD modems or more than one connection to the Internet and PSTN for example. However, Bateman et al. addresses the issue of allowing a customer to simultaneously view information and speak with a live agent. If only voice communications were desired, Bateman et al. already teaches that it is old and well known to request live communications using the Internet. Nothing in Bateman et al. teaches away from a customer disconnecting from the Internet to receive a PSTN voice call if that was the only connection he/she had. Moreover, nothing regarding the dual connections or SVD modems, etc. is pertinent to the submission of live help or callback requests, the storage of such requests, nor to the scheduling of or immediate callback. Bateman et al. essentially just teaches a more advanced application of the present invention that was reduced to practice at least 3 years before the present invention. Therefore, one of ordinary skill in the art could have moved backwards and made the invention of Bateman et al. more basic to arrive at the claimed invention regarding the live help and callback request aspect.

Regarding claim 21, Bateman et al. teaches the use of Internet services with multiple media formats and it is well known to use JAVA over the Internet. Therefore it

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would be an obvious design choice by one skilled in the art whether to use CGI or JAVA so as to allow for the transmission of the call back data over the Internet.

3. Claims 12 – 20, 27, and 34 - 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 5,884,032 (Bateman et al.) in view of US Pat 4,052,570 (Sutton), and further in view of applicant's admitted prior art, US 2001/0040887 (Shtivelman et al.), and US Pat 5,214,688 (Szlam et al.)

As to claims 12 – 20, and 27, Bateman et al., Sutton, and Shtivelman et al. have been discussed above. What they do not teach is a predictive dialer, wherein the predictive dialer has a call pacer. Furthermore, Bateman et al. does not teach appending a non-answered call to a future call campaign.

However, Szlam et al. teaches a method and apparatus for dynamic and interdependent processing of inbound calls and outbound calls, wherein a pacing, predictive dialer is used (Fig. 4 and Col. 11, line 50 – Col. 12, line 7 of Szlam et al.) as well as assigning a call to a next campaign (Col. 9, lines 5 – 8 of Szlam et al.)

It would have been obvious to include the aforementioned features of Szlam et al. in the combination of Bateman et al., Sutton, and Shtivelman et al. so as to allow for the dynamic adjustment of call completion in response to various call scenarios and situations as noted in Columns 2 and 3 of Szlam et al.

As to claims 34 – 36, see the rejection of claims 29 – 33.



***Response to Arguments***

4. Applicant's arguments filed 5/9/05 have been fully considered but they are not persuasive.

Examiner maintains the rejection above as well as the reasoning set forth for the rejection.

As to the declaration of the inventor, the statement made merely mirror the arguments presented in the arguments and so will not be separately addressed.

Applicant's invention is essentially a system or method wherein a customer at a location which cannot support voice and data simultaneously requests a callback from a call center agent via the Internet. The agent or call center via for example, a predictive dialer, will then repeatedly attempt to callback the customer. Because the customer has only one line connecting him/her to the Internet and to the PSTN, the customer must first hang up the Internet connection in order for an incoming call, such as the callback, to be received. The ONLY improvement the applicant has introduced to this system and method is the repetitive callback procedure. Applicant in the specification and throughout prosecution of this application has admitted that all other aspects of the system and method are old and well known. Applicant's solution to the perceived problem is again, merely to repetitively callback the customer until his/her line is free to accept the callback.

Applicant has made assertions that the prior art such as Sutton does not have anything to do with identifying the best time to contact a party who has requested a callback. Unfortunately, neither does applicant's invention. As applicant states on page

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16 of the latest response, "the present invention is based upon the recognition that the best time to respond to the inquiring party's request is immediately, and further that the .... Line will be busy until he has ended his modem's connection... Accordingly, the systems and methods of the present invention immediately redial the inquiring party's telephone number when a busy signal is detected so as to connect the call as soon as possible..." It is clear therefore, that the applicant's invention makes no true determination as to when to make a callback but simply operates aggressively in repetitively calling back the customer until such time that the customer's line is free. Bateman et al. as already discussed teaches the ability for a customer to request an immediate callback or schedule a callback for a later time.

Moreover, Bateman et al. is attacked by applicant as teaching ONLY a system that can handle simultaneous voice and data. However, notwithstanding the fact that Bateman et al. teaches that at least 3 years prior to applicant's invention it was well known to provide simultaneous voice and data modems or use separate lines, applicant's invention is merely a step backwards from Bateman et al. Bateman et al. already teaches that a customer may use the Internet to request a callback on a telephone. It is irrelevant in this step whether or not the customer is connected to the Internet and PSTN over one line with a modem, multiple lines, or using a simultaneous voice and data modem. The fact is, it is known that a customer can request a callback using the Internet. Even the applicant admits as such.

Examiner then uses Sutton in combination with either applicant's admitted prior art or Bateman et al. to show that repetitive callback would be obvious to one of

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ordinary skill in the art at the time the invention was made. Sutton teaches that in 1975, it was known to perform repetitive callback when a callback attempt was met with a busy signal. Applicant argues as mentioned above, that Sutton has nothing to do with requesting a callback at the best time or in addition, accessing a computer network first, etc. However, Bateman et al. and applicant's admitted prior art already teaches this. Sutton does not have to. Sutton teaches repetitive callback if a busy signal is detected. Applicant admits already that call centers "usually" reschedule a callback if the customer's line is still busy. Sutton then provides the motivation and means to overcome the need to reschedule by repetitively calling back the customer. Applicant seems to expect examiner to produce a 102 reference and that only a 102 reference showing all the limitations of applicant's invention would preclude patentability. However, examiner has made a 103 rejection with the requisite motivation for combining the prior art references.

In fact, as also already discussed in the previous office action, and repeated above, applicant's inventive aspect really isn't attributable to the claimed invention since it merely amounts to an agent or call center repeatedly calling back a telephone line until it is free. Anyone today or from the time of the introduction of the first telephones, could simply call a number until it became free and the call went through. This is nothing new in telephony.

Likewise, examiner merely included Shtivelman et al. to show that it was known to have a user that had to hang up his/her Internet connection in order to receive a call.

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Again, applicant's arguments regarding Shtivelman et al. seem to expect examiner to produce a 102 reference, when examiner is clearly making a 103 rejection.

As to applicant's arguments regarding Szlam et al. and Bateman et al., Bateman et al. teaches an outbound dialing system 32 and as already discussed above, callbacks can be scheduled and outdialed automatically at least similar to, if not exactly like a predictive dialer would. Moreover, predictive dialers / predictive dialing systems are notoriously old and well known specifically in the call center arts. Examiner is unaware of common uses for predictive dialers outside of the call center arts. Bateman et al. may happen to focus on the incoming call procedure but, Bateman et al. uses conventional call center technology as far as switching and dialing, as evidenced by the outbound dialing system 32. Therefore, there is in fact ample motivation to combine Szlam et al. and Bateman et al.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 703-305-1844. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hector A. Agdeppa  
Examiner  
Art Unit 2642

H.A.A.  
August 4, 2005

  
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